



**The Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: G & G Patrol
File: B-233170
Date: October 27, 1988

DIGEST

Protester's late bid, sent by U.S. Postal Service express mail 2 days prior to bid opening, was properly rejected notwithstanding assurance by Postal Service employee of timely delivery. Late bids that are not sent by registered mail or certified mail 5 days prior to bid opening can only be considered if there was government mishandling after receipt at the government installation. Express mail is not the equivalent of registered or certified mail, and the term "government" in government mishandling means the contracting activity, not the Postal Service.

DECISION

G & G Patrol (G&G) protests the rejection of its bid as late under invitation for bids (IFB) No. DAAD01-88-B-0075, issued by the Department of the Army for security guard services.

We dismiss the protest without obtaining a report from the Army, since it is clear from the material furnished by the protester that the protest is without legal merit. 4 C.F.R. § 21.3(m) (1988).

The Army rejected G&G's bid because it was not received by the time set for bid opening on September 26, 1988. G&G does not dispute the fact that its bid was late, but argues that its bid should be considered because it was sent by express mail on September 24, and a U.S. Postal Service employee assured G&G the bid would be delivered on time.

A late bid may be considered only if it was received before award and (1) was sent by registered or certified mail at least 5 days prior to the opening date, or (2) the late receipt was due solely to government mishandling after

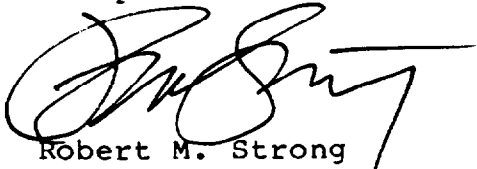
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receipt at the government installation. Federal Acquisition Regulation (FAR) § 14.304-1 (FAC 84-11). Neither of these exceptions applies here.

Express mail is not considered certified or registered mail for purposes of the first exception, Goodwin Contractors, B-228336, Dec. 17, 1987, 87-2 CPD ¶ 604. In any event, G&G's bid was not mailed until 2 days before bid opening. The fact that the Postal Service employee allegedly assured G&G the bid would be delivered on time does not relieve G&G of its obligation to ensure timely arrival of its bid. Olympic Mills Corp., B-218218, Mar. 4, 1985, 85-1 CPD ¶ 273.

The second exception also does not apply. Delayed delivery by the Postal Service does not constitute government mishandling, since the word "government" in the cited regulation refers to the procuring agency, not the Postal Service. Machine Research Co., Inc., B-230188, Mar. 2, 1988, 88-1 CPD ¶ 224. Therefore, before the mishandling contemplated can occur, the bid package must be delivered to the procuring agency installation. Since there is no allegation that mishandling occurred after such delivery, the Army's rejection of the bid as late was proper.

The protest is dismissed.



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